

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 3920 of 1992****For Approval and Signature:****HON'BLE MR JUSTICE KS JHAVERI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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GUJARAT INSECTICIDES LTD. - Petitioner(s)
Versus
JAYANTKUMAR H ROHADIA - Respondent(s)

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Appearance :

MR KUNAL NAIK for M/S TRIVEDI & GUPTA for Petitioner No(s).: 1.
MS HANSA PUNANI A.G.P. for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI
Date : 11/08/2005

ORAL JUDGMENT

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1. The petitioner by way of this petition has prayed to quash and set aside the impugned order dated 18th April, 1991 passed by the Labour Court in Recovery Application No. 339/88 passed below Exh. 7 and 11.

2. The short facts of the case are that the respondent was working as a Boiler Attendant with the petitioner. It is the case of the petitioner that for the purpose of its manufacturing activities, the petitioner in the year 1984, installed two more boilers and thereafter in the year 1985, the petitioner acquired third boiler. It is the case of the petitioner that since the qualified persons were available to attend the boiler, there was no question of the respondent attending the third boiler.

2.1. It is further the case of the petitioner that since the respondent is not qualified for as such, he has no right to claim the scale/grade of Junior Engineer. Despite this fact, the respondent under Section 33(C)(2) preferred Recovery Application No. 339/88 before the Labour Court, for payment of wages. The Labour Court after considering the case on merits, allowed the application below Exh. 11 filed by the respondent and rejected the application below Exh. 7 filed by the petitioner. Hence, this petition.

3. I have heard the learned counsel for the parties. Having perused the materials produced on

record, it transpires that an interlocutory order has been challenged in this petition. This Court on 17th February, 1993, had passed the following order :-

"Heard the learned counsel for the petitioner as regards interim relief.

Having regard to the facts and circumstances of the case it would not be proper to stay proceedings of recovery application. Be it noted that proceedings of recovery application are in the nature of execution proceedings. Therefore, it is desirable that such proceedings be completed as soon as practical. For the aforesaid reasons and having regard to the overall facts and circumstances of the case, ad-interim relief granted earlier vide order dated June 8, 1992 by the learned Single Judge is vacated. [It appears that the matter was moved during vacation and during vacation, the matter was circulated before the learned Single Judge].

However, it is directed that if the Recovery Application is decided during the pendency of this petition, then in that case the final order that may be passed, shall not be implemented without the permission of this Court. The Labour Court shall not be influenced by the circumstance that this petition is pending in this High Court.

Subject to the aforesaid clarification, ad-interim relief granted earlier stands vacated."

3. In above view of the matter, no further orders are required to be passed at this stage. It will be open

for the petitioner to challenge the final order if it is against the petitioner. The order granted by this Court will continue for a period of four weeks from the date of the order of the Labour Court, if it is not declared so far. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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